***THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY***

**WRIT PETITION No. 18402 of 1996**

**DATED: 21.02.2006**

Between:

Pidugu Venkateswara Rao and another.

**... PETITIONERS**

AND

The Mandal Revenue Officer and others.

**... RESPONDENTS**

**ORDER:**

The petitioners challenge the impugned order, dated 07.08.1996, passed by the 1st respondent.

The grand father of the 1st petitioner, by name P.Satyanarayana, is the registered owner of the land in Survey No.173 of Darsiparru Village of Pentapadu Mandal, West Godavari District. The 2nd petitioner is said to have purchased some of the land in Survey No.173 from the 1st petitioner. The impugned order was addressed to the grand father of the 1st petitioner as well

as the 2nd petitioner. Both of them were directed to restore the bund for a drain canal, which is said to have been removed by them. In default, they were threatened with an action under Section 430 I.P.C.

The petitioners contend that Satyanaratyana died about 40 years ago and without even verifying that fact, the impugned order was passed at the instance of some local persons. It is urged that they have not been put on notice, before the impugned order came to be passed.

Heard the learned counsel for the petitioners and the learned Government Pleader for Irrigation.

The 1st respondent appears to have gone by the entries in the relevant revenue records in ascertaining the ownership of the land in Survey No.173. On receiving complaints from the owners of the neighbouring lands i.e., Survey Nos.175, 176 and 177, the 1st respondent required the petitioners to restore the drain canal.

In a way, it can be said that the impugned order is addressed to the 1st petitioner, being the legal heir of deceased Satyanarayana. However, the impugned order suffers from a serious legal infirmity. It was not preceded by any show cause notice to the affected persons. It was proceeded as though there existed a drainage canal across the land of the petitioners and that the same has been disturbed by them. Before arriving at such a conclusion, the 1st respondent ought to have heard the petitioners. The impugned order can be treated as a show cause notice, for this purpose.

For the foregoing reasons, the Writ Petition is disposed of, directing that the impugned order, dated 07.08.1996, shall be treated as a show cause notice addressed to the petitioners herein. They shall be entitled to submit explanation

thereto within four (4) weeks from today. The further action against the petitioners shall be taken, only after passing final orders, on the basis of the explanation submitted by them. *Status quo* obtaining as on today shall be maintained, till such exercise is undertaken. There shall be no order as to costs.

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**21.02.2006**

**Jsu**